

**DEPARTMENT OF STATE REVENUE**  
**LETTER OF FINDINGS NUMBER: 98-0111 IT**  
**Individual Income Tax**  
**For The Tax Periods: 1994 and 1995**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning specific issue.

**ISSUES**

I. **Individual Income Tax**: Unreported Vehicle Sales

**Authority:** IC 6-3-1-3.5

Taxpayer protests the Department's inclusion of certain vehicle sales in adjusted gross income.

II. **Negligence Penalty**: Imposition

**Authority:** IC 6-8.1-10-2.1; 45 IAC 15-11-2(c)

Taxpayer protests the imposition of the negligence penalty.

**STATEMENT OF FACTS**

Taxpayer sells used motor vehicles. Additional facts will be provided as needed.

I. **Individual Income Tax**: Unreported Vehicle Sales

**DISCUSSION**

IC 6-3-1-3.5 defines adjusted gross income. The Department included "unreported vehicle sales" in taxpayer's adjusted gross income. This amount was determined pursuant to a business sales tax audit conducted for tax years 1994 through 1996. Upon review of the sales tax audit, the Department determined in Letter of Findings Number 97-0561 ST that there is no basis for an adjustment to taxpayer's liability. Thus, there is no basis for an adjustment to taxpayer's income tax liability. Therefore, the sales included in taxpayer's adjusted gross income are subject to individual income tax.

**FINDING**

The taxpayer's protest is denied.

II. **Negligence Penalty**: Imposition

**DISCUSSION**

Indiana Code 6-8.1-10-2.1(d) allows a penalty to be waived upon a showing that the failure to pay the deficiency was due to reasonable cause. Department regulation 45 IAC 15-11-2(c) requires that in order to establish reasonable cause, the taxpayers must show that they exercised ordinary business care and prudence in carrying out or failing to carry out a duty giving rise to the penalty imposed. The Department finds that taxpayer has not sufficiently performed his duty to maintain accurate records. Thus, the penalty should not be waived.

**FINDING**

The taxpayers' protest is denied.